

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING
IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-05-3061.M5

MDR Tracking Number: M5-04-3604-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on June 24, 2004.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the work hardening program rendered on 7/16/03 through 8/18/03 was not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On August 31, 2004, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	MAR	EOB Denial Code	Rationale
7/16/03	97545-WH-AP	\$128.00	\$0.00	\$128.00	None	Both the requestor and the respondent failed to submit copies of EOBs. The requestor submitted proof of submission along with proof of reconsideration. Therefore the disputed charge will be reviewed according to the 1996 Medical Fee Guideline. The requestor is therefore entitled to reimbursement in the amount of \$256.00.
7/18/03	97545-WH-AP	\$128.00	\$0.00	\$128.00	None	
TOTAL		\$256.00	\$0.00	\$128.00		

ORDER

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this Order. This Order is applicable to dates of service rendered on 7/16/03 through 7/18/03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 8th day of October 2004.

Margaret Q. Ojeda
Medical Dispute Resolution Officer
Medical Review Division
MQO/mqo

August 27, 2004

Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

Re: Medical Dispute Resolution
MDR #: M5-04-3604-01
TWCC#:
Injured Employee:
DOI:
SS#:
IRO Certificate No.: 5055

Dear

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine and is currently on the TWCC Approved Doctor List.

REVIEWER'S REPORT

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor: correspondence, office notes, physical therapy notes, FCE, electrodiagnostic report, operative and radiology reports.

Information provided by Respondent: correspondence and designated doctor exams.

Clinical History:

Claimant underwent extensive physical medicine treatments and surgery after injuring his right knee, right hip and lumbar spine in fall at work on ____.

Disputed Services:

Work hardening during the period of 07/16/03 through 08/18/03.

Decision:

The reviewer agrees with the determination of the insurance carrier and is of the opinion that the work hardening program from 07/16/03 through 08/18/03 was not medically necessary in this case.

Rationale:

The records fail to substantiate that the aforementioned services fulfilled the requirements of Texas Labor Code 408.021 since the patient obtained no relief, promotion of recovery was not accomplished and there was no enhancement of the employee's ability to return to employment. Specifically, the functional capacity examinations document that the patient's lumbar ranges of motion dramatically decreased from 06/18/04 to 08/04/03. Moreover, the patient's pain rating was 7/10 on 06/24/03 (near the initiation of the treatment), 7/10 on 07/16/03 (at the mid point of the treatment) and 7/10 on 08/18/03 (at the end of the treatment.)

And finally, the claimant's lack of response could have been predicted since current medical literature states, "...there is no strong evidence for the effectiveness of supervised training as compared to home exercises. There is also no strong evidence for the effectiveness of multidisciplinary rehabilitation as compared to usual care."¹ The literature further states "...that there appears to be little scientific evidence for the effectiveness of multidisciplinary biopsychosocial rehabilitation compared with other

¹ Ostelo RW, de Vet HC, Waddell G, Kerchhoffs MR, Leffers P, van Tulder M, Rehabilitation following first-time lumbar disc surgery: a systematic review within the framework of the cochrane collaboration. Spine. 2003 Feb 1;28(3):209-18.

rehabilitation facilities....”² And a systematic review of the literature for a multidisciplinary approach to chronic pain found only 2 controlled trials of approximately 100 patients with no difference found at 12-month and 24-month follow-up when multidisciplinary team approach was compared with traditional care.³ Based on those studies and absent any documentation that the work hardening program was beneficial, it is medically unnecessary.

Additional Comments:

In the preamble of the Texas Workers Compensation Commission’s amendments to rule 134.600, the Commission states as follows: “Over-utilization of medical care can both endanger the health of injured workers and unnecessarily inflate system costs. Unnecessary and inappropriate health care does not benefit the injured employee or the workers’ compensation system. Unnecessary treatment may place the injured worker at medical risk, cause loss of income, and may lead to a disability mindset. Unnecessary or inappropriate treatment can cause an acute or chronic condition to develop.”⁴ In its report to the legislature, the Research and Oversight Council on Texas Workers’ Compensation explained its higher costs compared to other health care delivery systems by stating, “Additional differences between Texas workers’ compensation and Texas group health systems also widen the cost gap. These differences include...in the case of workers’ compensation, the inclusion of costly and questionable medical services (e.g., work hardening/conditioning.)”⁵ In this case, the reviewer is of the opinion that this provider’s work hardening program is the type of questionable services of which the TWCC and the legislature spoke when expressing concern in regard to medically unnecessary treatments that may place the injured worker at medical risk, create disability mindset, and unnecessarily inflate system costs.

Sincerely,

² Karjalainen K, Malmivaara A, van Tulder M, Roine R, Jauhiainen M, Hurri H, Koes B. Multidisciplinary biopsychosocial rehabilitation for neck and shoulder pain among working age adults. Cochrane Database Syst Rev. 2003;(2):CD002194.

³ Karjalainen K, et al. Multidisciplinary rehabilitation for fibromyalgia and musculoskeletal pain in working age adults. Cochrane Database of Systematic Reviews 2000;2.

⁴ 26 Tex. Reg. 9874 (2001)

⁵ “Striking the Balance: An Analysis of the Cost and Quality of Medical Care in Texas Workers’ Compensation System,” Research and Oversight Council on Workers’ Compensation, Report to the 77th Legislature, page 6.